MONTANA LEGISLATIVE HISTORY

Chapter 283 1974

Bill H _____ S 697 Original bill & history / C

H. Committee on Judiciary

Hearing Date(s) _____ / C
3/27 / C
_____ C
_____ / C

Date Out 3/5 / C

S. Committee on Judiciary

Hearing Date(s) 2/1 / C
2/14 / C
2/15 / C
_____ C

Did this bill originate in an interim committee? ___ Yes / No

Committee _____ Report _____

SENATE BILL NO. 697

INTRODUCED BY Pulfeather Sedman

64-302, 64-303

A BILL FOR AN ACT ENTITLED: "AN ACT TO PREVENT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, EDUCATION, AND REAL PROPERTY TRANSACTIONS; TO ESTABLISH A COMMISSION ON HUMAN RIGHTS; TO AUTHORIZE THE CREATION OF LOCAL COMMISSIONS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO, AND FOR OTHER PURPOSES; AND REPEALING SECTIONS 64-302 AND 64-303, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in this act, unless the context requires otherwise:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in section 82A-1015.

(3) "Department" means the department of labor and industry provided for in Title 82A, chapter 10.

INTRODUCED BILL

(4) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, university, a business, nursing, professional, secretarial, technical or vocational school or an agent of an educational institution.

(5) "Employee" means an individual employed by an employer but does not include an individual employed in the domestic service of any person.

(6) "Employer" means an employer of one (1) or more persons but does not include a club that is exlusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association or corporation is not organized for private profit; or to provide accommodation or services that are available on a nonmembership basis.

(7) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(8) "Financial institution" means a commercial bank, trust company, mutual savings bank, cooperative bank, homestead association, finance company, mutual savings and loan association or an insurance company.

(9) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping

SB697

quarters of its occupants.

(10) "Labor organization" means an organization and an agent of the organization, organized for the purpose, in whole or in part, of collective bargaining, dealing with employers concerning grievances, terms of conditions of employment, or of other mutual aid protection of employees.

(11) "National origin" means ancestry.

(12) "Person" means one (1) or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated employees, employers, employment agencies, or labor organizations.

(13) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public including but not limited to a public inn, restaurant, eating house, hotel, roadhouse, place where food or spirituous or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, night club, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons.

Section 2. Discriminatory practices prohibited -- described discriminatory practices are prohibited. (1) It is a discriminatory practice for:

(a) an employer to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, religion, color, or national origin or because of his age, physical handicap or sex when the reasonable demands of the position do not require an age, physical handicap or sex distinction;

(b) a labor organization, because of a person's sex, age, race, religion, color, or national origin, to exclude or expel him from its membership, apprenticeship, or training program, or to discriminate in any way against a member of, or an applicant to the labor organization or an employer or an employee; an employee;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment, which expresses, directly or indirectly, a limitation, specification or discrimination as to sex, age, race, creed, color, or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employer, labor organization or employment

agency to discharge, expel, or otherwise discriminate against a person because he has opposed any practices forbidden under this act or because he has filed a complaint, testified, or assisted in a proceeding under this act; or

(e) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation at a salary or wage rate less than that paid to a male employee for work of comparable character or for similar work in the same operation, business, or type of work in the same locality.

The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights law and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public.

(2) It is a discriminatory practice for the owner, lessee, manager, agent, or employee of a public accommodation:

(a) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or

privileges because of sex, race, age, religion, color, or national origin;

(b) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any of the services, goods, facilities, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, religion, sex, age, color or national origin except when the distinction is based on reasonable grounds under rules adopted by the commission.

(3) It is a discriminatory practice for the owner, lessee, manager or other person having the right to sell, lease, or rent a housing accommodation or improved or unimproved property:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, race, religion, color, age, or national origin, except when the distinction is based on reasonable grounds under rules adopted by the commission;

(b) to discriminate against a person because of sex, race, religion, age, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of a housing accommodation or improved or unimproved property, except when the distinction is based on reasonable

SB697

grounds under rules adopted by the commission; or

(c) to make a written or oral inquiry or record of the sex, race, religion, age, color, or national origin of a person seeking to buy, lease, or rent a housing accommodation or improved or unimproved property, except when the distinction is based on reasonable grounds under rules adopted by the commission;

(d) a private residence designed for single family occupancy, in which sleeping space is rented to guests in the family home in which the landlord also resides, may be excluded from the provisions of this act.

(4) It is a discriminatory practice for a financial institution, upon receiving an application for financial assistance to permit an official or employee during the execution of his duties:

(a) to discriminate against the applicant because of sex, race, religion, age, color, or national origin in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance; or

(b) to make or cause to be made a written or oral inquiry or record of the sex, race, religion, age, color, or national origin of a person seeking the institution's financial assistance.

(5) It is a discriminatory practice for the state or any of its political subdivisions:

(a) to refuse, withhold from, or deny to a person any local, state, or federal funds, services, goods, facilities, advantages, or privileges because of race, religion, sex, color, age, or national origin;

(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any local, state, or federal funds, services, goods, facilities, advantages, or privileges of the office or agency will be refused, withheld from, or denied to a person of a certain race, religion, sex, color, age, or national origin or that the patronage of a person belonging to a particular race, creed, sex, color, or certain age or national origin is unwelcome, or not desired or solicited.

(6) It is a discriminatory practice for an educational institution:

(a) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, condition, and privileges of the institution because of race, color, age, sex, religion, or national origin;

(b) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, religion or national origin of an applicant

for admission, except as permitted by regulations of the commission;

(c) to print, publish, or cause to be printed or published a catalog or other notice or advertisement indicating a limitation, specification, or discrimination based on the race, color, religion, age, sex, or national origin of an applicant for admission; or

(d) to announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of race, color, religion or national origin.

Section 3. Sex, age, race, religion, color, origin no justification for discrimination. (1) Sex, age, race, religion, color or national origin, either singly or in combination, may not comprise justification for discrimination in and of themselves unless the nature of the service requires the discrimination for the legally demonstrable purposes of correcting a previous discriminatory practice.

(2) Separate lavatory, bathing or dressing facilities based on the distinction of sex may be maintained for the purpose of modesty or privacy.

Section 4. There is a new section to be numbered 82A-1015, R.C.M. 1947, which reads as follows:

82A-1015. Commission for human rights. (1) There is a

commission for human rights.

(2) The commission consists of five (5) members appointed by the governor.

(3) The commission is designated as a quasi-judicial board for the purposes of section 82A-112.

(4) The commission is allocated to the department of labor and industry for administrative purposes only as provided in section 82A-108.

Section 5. Complaint -- how filed -- by whom. (1) A person who believes he is aggrieved by any discriminatory practice prohibited by this act may sign and file with the department a written, verified complaint stating the name and address of the person alleged to have engaged in discriminatory practice, and the particulars of the alleged discriminatory practice. The department may file a complaint in like manner when a discriminatory practice comes to its attention.

(2) The department shall notify the commission in writing of all complaints filed with the department. The commission shall meet a minimum of four (4) times a year to hear and act upon all complaints filed.

(3) At any time after a complaint is filed under this act, alleging an unlawful discriminatory practice, the commission may file a petition in the district court in the county in which the subject of the complaint occurs, or in

the county in which a respondent resides or transacts business, seeking appropriate temporary relief against this practice, including an order restraining the respondent from interfering in any manner with an order the commission may enter with respect to the complaint. The court has the power to grant the temporary relief or restraining order it considers just and proper. However, no relief or order extending beyond fourteen (14) days may be granted except by consent of the respondent and upon a finding by the court that there is reasonable cause to believe that the respondent has engaged in discriminatory practices.

(4) The department shall informally investigate the matters set out in a filed complaint promptly and impartially. If the department determines that the allegations are supported by substantial evidence, it shall immediately try to eliminate the discriminatory practice by conference, conciliation, and persuasion.

(5) If the informal efforts to eliminate the alleged discrimination are unsuccessful, the department shall inform the commission of the failure and the commission shall cause written notice to be served together with a copy of the complaint, requiring the person, employer, business, corporation or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission. The hearing shall be held by the commission in

the county where the unlawful conduct is alleged to have occurred unless the person, employer, business, corporation, organization, agency or the commission requests a change of venue for good cause shown. The case in support of the complaint may be presented before the commission by the department, the complainant or by an attorney representing the complainant. The hearing shall be held in accordance with the Montana Administrative Procedure Act.

Section 6. Power of commission on finding of discrimination. (1) If the commission finds that a person against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, it shall order him to refrain from engaging in the discriminatory conduct. The order may prescribe conditions on the accused's future conduct relevant to the type of discriminatory practice found.

(a) The order may require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against.

(b) The order may require a report on the manner of compliance.

(2) If the commission finds that a person against whom a complaint was filed has not engaged in the discriminatory practice alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the

complaint.

Section 7. Injunction to enforce commission order. The department may petition the district court in the county where the discriminatory practice occurred or in which the respondent resides or transacts business to enforce the commission's order by injunction.

Section 8. Department may employee attorney. (1) The department may employ an attorney as legal counsel. He shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party. The attorney general shall perform this function at the request of the commission.

Section 9. Unlawful to violate act -- penalty. (1) It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this act or to attempt to do so.

(2) No person or institution may discharge or discriminate against any participant or potential participant because he or she has made a complaint, assisted with an investigation or instituted proceedings.

(3) A person, employer, business, organization, corporation or agency, both public and private, who or which willfully engages in an unlawful discriminatory practice

prohibited by this act or willfully resists, prevents, impedes, or interferes with the commission, the department or any of its authorized representatives in the performance of duty under this act or who or which willfully violates an order of the commission or violates this act in any other manner, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than six (6) months or both.

-End-

SB. 697

43RD LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
643	1/17	1/31,2/15	2/15		2/15	(MAJORITY-MINORTY RPTS NEVER SUBMITTED)			
646	2/18	2/6, 12	2/12	2/12					
655	1/17	2/8, 12	2/12			2/12			
659	1/17	2/4, 14	2/14		2/14				
668	1/17	1/29,2/4	2/4			2/4			
672	1/18	2/8	2/8			2/8			
673	1/18	2/1,2/4	2/4		2/4				
682	1/18	1/30	RE-REFERRED						
683	1/8	1/30	RE-REFERRED						
688	1/25	2/4	2/4		2/4				
697	1/18 2/15	2/1,14,/15	RE-REFERRED 2/14 2/15			2/15			
705	2/18	1/25,2/4	2/4		2/4				
712	1/18	1/31,2/4	2/4		2/4				
713	1/18	1/29	1/29		1/29				
715	1/18	2/6,2/12	2/12			2/12			
716	1/18	2/6,2/12	2/12			2/12			
717	1/18	2/6,2/12	2/12			2/12			

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE SENATE

February 1, 1974

The meeting was called to order by Senator McKeon, chairman, at 4:15 p.m. in Room 415 of the Capitol Building.

The following bills were heard: SB 673
SB 697
HB 542

SB NO. 673--Witnesses appearing on the bill:
Vernon V. Lane, 639 Helena Avenue, Missoula
Marshall M. Sheldon, Mt. State Low-Income Org.

Mr. Lane speaking in support of the bill said this amount of money being spent on nonsense items could be used for building better accommodations for schools, parks, etc. Mr. Sheldon said that the general consumer is forced to buy so-called "gimics". Mr. Lane submitted Attch. 1 as part of his testimony.

SB NO. 697--(Companion bills)--Witnesses appearing on the bills:
HB NO. 542
Polly Holmes, Yellowstone County
Geri Fenn, State Coodinator of Child Youth Corp.
Tony Softich, Administrator, Labor Standards

Mrs. Holmes' HB 542 is a hold-over bill from last session, and Senator Gilfeather's bill (SB 697) is the amended version of Mrs. Holmes'. She submitted a written statement (Attch. 2), and a stack petitions of people in support of the bill (Attch. 3), and said this bill would provide a depository for all cases which have been referred to various agencies, and that have been lost because of lack of information. The reason for the bill being drafted is that there is no responsible organization to handle discriminatory acts in Montana. There were a number of witnesses who were present on behalf of the bill:

Represenatative Bennetts, Helena
Sidney T. Smith, Labor & Industry
Mary Kendall, Just Us Inc.
Augustine Lopez, Mexican Americans for Better Education
Ernie Post, Montana State AFL-CIO
Carol Williams, Legislative chairman, A.A.U.W.
Urban J. Bear don't walk, U of M Law Student. He said this bill will provide some teeth in setting up an administrative body to handle this problem and said there is a need for affirmative action to hire Indians.
Carolyn Schwinden, department of P.E.
Jim Gonzala, Mexican-Chico Ass'n of Montana

Ms. Fenn said that youths are being discriminated against based on their age. She said deliquent acts and rebellion stem from this. People should be able to judge on merit rather age. She had a written testimony. (A. 4)

Mr. Softich presented a written testimony (Attch 5) in support of the bill. He said State statutes do not meet requirements on discrimination, based on age, sex, nationality and religion.

Senator Drake pointed out that nothing was mentioned as to discrimination based on "political ideas".

Senator McKeon question Ms. Fenn if this would abolish the child labor act. Ms. Fenn said it probably would, but the child's application for a job should be based on competency, not age. Mr. Softich said the only problem should be with school hours.

SENATOR GILFEATHER WAS ASSIGNED AS CHAIRMAN OF THE SUB-COMMITTEE ON HUMAN RIGHTS, WITH SENATOR HALL AND SENATOR DRAKE AS MEMBERS.

There being no further business the meeting was adjourned to reconvene Monday, February 4, 1974 on adjournment.

LUKE MCKEON, Chairman

ROLL CALL

SENATE JUDICIARY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Dat 2/1/74

NAME	PRESENT	ABSENT	EXCUSED
Luke McKeon	✓		
Pat Gilfeather	✓		
Paul Boyland	✓		
Mrs. Boots Hall	✓		
Miles Romney	✓		
Glenn Drake	✓		
Tom Harrison			
Jim Moore	✓		
Jean Turnage	✓		

Each day attach to minutes

COMMITTEE ON JUDICIARY BILL NO S697

H542

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Oppose
Terry Fenn	Myself	X	
Gary Griffith	Labor Standards Division	X	
Robert Smith	Commissioner of Labor	X	
James Knowles	Myself	X	
Carolyn Schneider	Self	X	
Ernest Cook	Montana State AFL-CIO	X	
W... Rundell	Dept Lic. Inc.	X	
norma tirrell	myself	X	
Lon Reagan	Montana Public Employees Assn.	X	
Robert Boe Don't Walk	Uof M Indian Studies	X	
Bob Parsley	Indian Education OSPI	X	
Wm P Yellowtail, Jr.	Indian Ed. - OSPI	X	
Merle R Lucas	Coordinator of Indian Affairs	X	
Tonka Michalson	Consumer	X	
Marshall M Sheldon	Mont State Low Income Org	X	
Joan South	MSUO	X	
Jeri Adair	MSUO	X	
Sally B Sessions	JUST-US,	X	
Ingrid Taylor		X	
Jim Reynolds	Migrant Council (Gulf)	X	
Rosa Lopez	Mex.-Am. Cultural Education	X	
Carol Williams	Leg. Chairman - A.A.U.W.	X	
Theresa Lopez	Self (CTS	X	

(Please leave prepared statement with Secretary)

SB 697 - HUMAN RIGHTS

I'd like to give you a quick history of this bill, because it's been in the making a long time. In fact, to get the whole story, you'd have to go back almost 200 years.

in 1776, it became a basic premise of our land that all men are created equal. This is what America was all about. Since that time, almost every law we've added to our books has been an attempt to be more and more specific about what that basic contention means, in various circumstances

Nearly a century later, in 1861, we fought a devastating war, to further DEFINE WHAT WE MEANT BY "EQUAL##### OPPORUNITY."

And about another century after that, in 1964, another major step was made in CLARIFYING THE CONSTITUTIONAL PROPOSITION:

THE U.S. CIVIL RIGHTS ACT was passed. This act ~~urged~~ directed the states to provide statutes to implement the civil rights law. And ~~the Federal Government has~~ it set up AFFIRMATIVE ACTION GUIDELINES ~~to assist us,~~ which, if followed, would assure the state of federal funds to help us implement this law. To date, AT LEAST 37 STATES have ~~done qualified.~~ set up H.R. Commissions or depts. ~~that qualify~~ Montana has not.

HOWEVER, in 1969, Montana started to comply, by setting up, at the president's behest, a state advisory committee of the U.S. Civil Rights Commission. It had no powers, but this group did a lot of the groundwork for this bill. It held public hearings, made surveys, and studied a whole array of model human rights laws from other states. ##### AFTER 4 YEARS, this group came up with the bill that started out last year as House Bill 542.

MEANWHILE, another group was drafting a slightly different version, patterned on Alaska's model bill, which became Rep. Bennett's H.B. 557.

The House Judiciary Committee put the 2 bills together, AND A SUBCOMMITTEE HEADED BY REP. ROBERTS (who's here today) REFINED THE BILL SOME MORE, and the Judic. Comm. sent ~~the 2 of them~~ it out, ~~melded together,~~ as HB542.

The House passed the bill, sent it to you; you passed it & sent it to Finance and Claims. There some questions were raised, and it was at the very end of the session, and it got held over.

October, 1972

Dear Friends,

When you get a letter from us when it isn't even Christmas, you can be sure something important is happening. And something is. Our tried and trusted friend, George McGovern, is running for president. You will forgive us, we're sure, if we share with you our persistent bias. If this letter should uncover a political difference between us, we're confident this will cause no fluctuation in our friendship.

We simply want to testify to our personal experience of George McGovern. We have known George for nearly 20 years (in South Dakota) and have watched him under every kind of circumstance. He is not at all a wild-eyed radical, but rather a scrupulously honest, open person whose major weakness as a politician is that he does not try to hide his strategies or his mistakes. Almost the whole country has challenged him to remain decent throughout the most aggravating series of frustrations. But though he will not take injustice or misinterpretation lying down, nothing will make George McGovern a lesser man than he is.

We urge you to read everything you can get your hands on regarding both candidates between now and November 7. And please watch George's specials on TV. They represent his half of the McGovern-Nixon debates. Generalizations and summaries of his programs aren't enough. Read the specifics about his proposals; don't rely on second-hand information or any one newspaper. We've found more examples of bad summarizing in this campaign than we've ever noticed before.

We believe in McGovern. He has always listened with level-headed openness to varying viewpoints. Far from a rash man, he calls on the best heads in each area of concern for his advice. When free of the constant demands of an unbalanced race, he will demonstrate his unusual ability to assess the future and plan for it with patience and thoroughness. Perhaps most important, he will not be too proud to re-listen, re-assess, and make changes where they need to be made.

Please accept this as our personal testimony of faith in a man of enormous integrity. We think it would be tragic if America had a chance to elect a man of George's calibre and turned it down.

We're still enjoying our state, our family and our jobs. Steve and Tim are both going to Rocky Mountain College this year and loving it. Life is good to the Holmeses. Hope this is true of you too.

Love to all,

Bob, Polly & all

The Holmeses

SB697 During the interim,

S697 ATTACHMENT 1 (2)

Anxious to condense and simplify the bill, and take care of all possible objections, ~~during the interim~~ Rep. Bennetts and some others from some of the agencies concerned, did some more work on it, and took it to ~~a couple of lawyers in~~ the lawyers at the Govt'. Operations Unit, ~~whom I'll introduce# to you in a moment.~~ (who's the director) and PAT MELBY, ~~and Paul Adams~~ studied the bill in detail, and did some more very careful work on it.

When the session opened this year, the old bill was sent back to your committee, and Senator Gilfeather took the NEW, IMPROVED MODEL, and introduced it as a new bill.

The bill sets up, within the state, an orderly process for handling discrimination complaints. It clarifies the meaning of discrimination, gives all kinds of exceptions and escape clauses, so that it can't be misused, and sets up a structure for processing complaints that are filed under the law.

It will relieve the courts of hundreds of petty civil rights cases, that the courts should never have to deal with. ##### AND IT WILL PROVIDE A PROPER DEPOSITORY FOR ALL THE OTHER CASES THAT HAVE BEEN REFERRED TO VARIOUS BOARDS AND AGENCIES, that nobody has known what to do with. ~~In the area of employment, cases have had to be sent to Denver, for the EEO to handle, and federal investigators have had to come into Montana to look into these cases.~~ IT HAS BEEN A VERY CUMBERSOME AND EXPENSIVE PROCESS, and there are several people here today who can testify to this. ~~WE'VE NEVER HAD A SATISFACTORY WAY OF HANDLING~~

IF YOU HAVE ANY QUESTION AS TO WHETHER THIS LEGISLATION IS NEEDED, I HAVE HERE A PACKET OF INDIVIDUAL CASE HISTORIES THAT ~~A GROUP IN BILLINGS~~ the ACLU HAS SENT US. Let this be exhibit A, Mr. Chairman.

~~And exhibit B~~ EXHIBIT B IS A STACK OF PETITIONS . . . .

AND EXHIBIT C is a letter from ~~one of the writers of one of the~~ a VISTA worker in our state who lists three major reasons why this legislation is necessary in Montana:

Intro Bill to Dir. to print stat. & amendments

BILLINGS CHAMBER OF COMMERCE

COMMENT

Volume XII No. 15 December 8, 1972

Questionnaire Circulated

A questionnaire is being circulated that is designed to obtain the feeling of the general public toward the local businessmen, merchandise, and services provided. We feel that we have a healthy business climate and happy customers in Billings, but there is no need to take it for granted. We will make available to our membership the results of the survey. The questionnaires will be circulated in five locations--West Park Plaza, Buttreys Super Store, Hart-Albin Co., Heights IGA, and Southside Thriftway. The booths will be manned on Saturday, December 9, by local Boy Scouts.

Bill Simmons, chairman for the Business Consumer Committee, said that we hope we can determine if there is a serious consumer problem in Billings and, if there is, what steps can be taken to correct the problems.

Galles Talks To Fire Chief

Dale Galles, chairman of the Crime and Fire Prevention Committee, met November 30 with Wallace Frickle, Billings' new Fire Chief. Also present were Dennis Gambill, chairman of the Fire Bond Project, and Curt Magruder, outgoing Fire Chief.

The intent of the meeting was to brief Frickle on the committee efforts in fire prevention and the work done on the Fire Bond Issue.

Committee Meets With U.S. Chamber

The Human Resources Committee held their monthly meeting Thursday, November 30. Larry Douglas, U.S. Chamber of Commerce Staff Manager of Human Resources Affairs, made a presentation on objectives and fields of operation in which the committee could operate.

The goal of the committee is to provide opportunities and education for employers in the area of employee relations. Douglas stated that since the committee is relatively new, a survey of existing resources and needs of the community is necessary to establish a foundation.

Cobb Field Future

The Sports Committee, officers of the Mustang Baseball Team, and Legion Baseball directors met in a special meeting to discuss Cobb Field and its problems. The feeling was that the location of Cobb Field is excellent in relationship to the rest of the community and that parking is not a problem except when the playoffs are held.

It was felt that the general foundation of Cobb Field is in good condition and that cost of restoration for the bleachers could be a four year project to get the facilities back into top notch condition. The organizations felt that it would be money wisely spent to restore Cobb Field at its present location as a baseball complex and a multi-purpose use. This position was recommended to the Chamber Board of Directors which in turn supported the committee's findings.

S 697

WE, THE UNDERSIGNED SPANISH LANGUAGE, INDIAN, BLACK AND LOW-INCOME WHITE RESIDENTS OF BILLINGS, RESPECTFULLY PETITION THE MONTANA STATE LEGISLATURE TO ENACT THE BILL ENTITLED "AN ACT TO PREVENT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, EDUCATION, AND REAL PROPERTY TRANSACTIONS: TO ESTABLISH A COMMISSION ON HUMAN RIGHT: TO AUTHORIZE THE CREATION OF LOCAL COMMISSIONS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO, AND FOR OTHER PURPOSES: AND REPEALING SECTIONS 64-302 AND 64-303" (HOUSE BILL NO. 542) DURING THE 1974 LEGISLATIVE SESSION.

S.B 697

NAME:	ADDRESS:
1. John L Minugh	715 Shawnee Dr. Billings
2. Joe L Chavez	3007 6TH Ave So.
3. Joseph Lave	27 Monroe St Billings Mt.
4. Rufusto N. Tedrines	202 South 31st, Billings
5. Anthony Le Desma	241 Terry ave Billings Mont
6. Augustine Lopez	412 Phillips Billings Mont.
7. Anthony Sworms	733 Anchor Billings mont.
8. Marsha Rivera	223 Mill Ave, Billings, Mont.
9. Pere Le Ve	423 So. 31st Billings Mont.
10. Barry Gonzales	4235 Phillips " "
11. Pedro R. Hernandez	2227 Virginia Ln. Billings, MT.
12. Joe Belmarez	323 South 27
13. Ken Rivera	1229 Colorado Billings
14. John P Garcia	319 So 32 Nd Billings Mont
15. James E. Gonzales	Rte #3 Billings, Mont
16. Jesse Gonzales	
17 Eva Lake	27 Monroe Billing Mont
18.	
19.	
20.	
21.	
22.	
23.	

WE, THE UNDERSIGNED, RESIDENTS OF BILLINGS, MONTANA, RESPECTFULLY PETITION THE MONTANA STATE LEGISLATURE TO ENACT THE BILL ENTITLED, "AN ACT TO PREVENT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, EDUCATION, AND REAL PROPERTY TRANSACTIONS; TO ESTABLISH A COMMISSION ON HUMAN RIGHTS; TO AUTHORIZE THE CREATION OF LOCAL COMMISSIONS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO, AND FOR OTHER PURPOSES; AND REPEALING SECTIONS 64-301 AND 64-303" (HOUSE BILL NO. 542) DURING THE 1974 LEGISLATIVE SESSION.
S.B. 697

NAME:	ADDRESS
1. Mrs V Gonzales	2077 17 St
2. Rosaria P Martinez	
3. Mr & Mrs Marcos Hernandez	611 So 26 St
4. Mr & Mrs M Contreras	3211 4th ave. So.
5. Mr & Mrs Sal Martinez	801 So 34 St.
6. Vicente Gonzales	
7. Cruz Ramirez	2816 S. 2nd So
8. Anna Kuntz	
9. John C Martinez	320 So. 24th St
10. Mr & Mrs Joe Rodriguez	
11. Francisco Chavez	3245 So - 25 ST
12. Mrs. Una Contreras	3142 Boulder ave
13. Orlando Torres	4025 - 3 ave So
14. Rose Mendoza	224 So. 36th St - city
15. Mary Garcia	812 So 29 - city
16. Margaret Meza	922 So 28 st. City
17. Wm. Meza	927 S - 25 ST city
18.	
19. Ruth G Contreras	3142 Boulder Ave.
20. Rosa M. Lawrence	~~2575 - 27~~ 316 S. 30
21. Joe E. Hallard	316 S. 30
22. Oswald A. Kessler	22 Ave. B
Ralph Hallard	701 S. 33rd

WE, THE UNDERSIGNED, RESIDENTS OF BILLINGS, MONTANA, RESPECTFULLY PETITION THE MONTANA STATE LEGISLATURE TO ENACT THE BILL ENTITLED, "AN ACT TO PREVENT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, EDUCATION, AND REAL PROPERTY TRANSACTIONS; TO ESTABLISH A COMMISSION ON HUMAN RIGHTS; TO AUTHORIZE THE CREATION OF LOCAL COMMISSIONS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO, AND FOR OTHER PURPOSES; AND REPEALING SECTIONS 64-301 AND 64-303" ~~(HOUSE BILL NO. 542)~~ S.B 697 DURING THE 1974 LEGISLATIVE SESSION.

	NAME:	ADDRESS
1.	John U. Flores	610 So. 36th St Blgs Mont.
2.	Ramon Ortiz	3210 2nd ave So
3.	STAN CHARLES	~~824 S 31~~
4.	Margaret Butremont	810 Cook Blgs,
5.	Adrianna Sierra	711 So. 27 St. Blgs Mont.
6.	Lydia Ortiz	3210 2 ave. So.
7.	Dan Lopez	4527 Arden ave
8.	Rudy Tellez	116 So 23. Billings
9.	Bill Bernardi	4011 So ave. Billings
10.	Louis J Alch	1301 Main St. # 22.
11.	James Sierra	711 So 27th
12.	Anita Flores	610 So 36th St.
13.	John Castro	718- [illegible]
14.	Dorothy Lopez	136 Nall ave.
15.	Margaret Antiveros	136 Nall Ave
16.	Jean A. Motta	46 Adams St St #B
17.	[illegible]	3017 5th ave South
18.	Andrew Garcia	4141 Vaughn
19.	Helen Garcia	4141 Vaughn
20.	Stanley Kim	834 AVE E Billings Mont.
21.	Mr & Mrs David Ranger	1210 Cook Ave.
22.	Jose Arredondo	724 So 34th St.

WE, THE UNDERSIGNED SPANISH LANGUAGE, INDIAN, BLACK AND LOW-INCOME WHITE RESIDENTS OF BILLINGS, RESPECTFULLY PETITION THE MONTANA STATE LEGISLATURE TO ENACT THE BILL ENTITLED "AN ACT TO PREVENT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, EDUCATION, AND REAL PROPERTY TRANSACTIONS: TO ESTABLISH A COMMISSION ON HUMAN RIGHT: TO AUTHORIZE THE CREATION OF LOCAL COMMISSIONS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO, AND FOR OTHER PURPOSES: AND REPEALING SECTIONS 64-302 AND 64-303". ~~(HOUSE BILL NO. 542)~~ S.B 697 DURING THE 1974 LEGISLATIVE SESSION.

	NAME:	ADDRESS:
1.	Luis Díaz	920 South 28 ST
2.	Mariano A Castro	1313 Moore St
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		

WE, THE UNDERSIGNED, RESIDENTS OF BILLINGS, MONTANA, RESPECTFULLY PETITION THE MONTANA STATE LEGISLATURE TO ENACT THE BILL ENTITLED, "AN ACT TO PREVENT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, EDUCATION, AND REAL PROPERTY TRANSACTIONS; TO ESTABLISH A COMMISSION ON HUMAN RIGHTS; TO AUTHORIZE THE CREATION OF LOCAL COMMISSIONS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO, AND FOR OTHER PURPOSES; AND REPEALING SECTIONS 64-301 AND 64-303" (~~HOUSE BILL NO. 542~~) DURING THE 1974 LEGISLATIVE SESSION.

S.B 697

NAME:	ADDRESS
1. Rafael L Armendariz	2611 11th South
2. Sal Macias	304 South 29
3. Trey Mann	315 So 30th
4. Rose Mary Rapp	1116 S 38
5. Antonia A Martinez	3006 4th Ave So #3.
6. Pascual Lovato	4440 Monroe Ave
7. Bonnie Silveira	323 So. 37th St.
8. A. Miller	805 So. 32 St
9. Ruth O'Brien	113 South 31st
10. Lula Jones	3111-2 Ave So.
11. Margie Tyson	506 So. 30th St
12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	
22.	

B

TO: The Judiciary Committee, Montana House of Representatives
John Hall, Chairman

There are perhaps three major reasons why the State of Montana should create a Human Rights Commission.

1. There is at present no mechanism within the state designed to enforce the statutes of the 1964 Federal Civil Rights Act and the 1968 amendments to that Act.

2. There is no organization responsible for educating the public in regard to the federal civil rights laws. One of the most effective ways of eliminating discrimination is through education. Not only must the public be educated as to what each individual's rights are, but also to what constitutes a violation of these rights. Just as important is the fact that changes in attitudes of the public are needed if discrimination is to be eliminated. The most constructive means of implementing this is through an intensive effort to educate people and change the misconceptions that lead to prejudice.

3. At present there is no responsible organization to gather the facts about acts of discrimination in Montana. Without this, there is no way to know who is being discriminated against and what kind of discrimination is practiced.

If we as Montanans expect to end discrimination in our state, we must be aware of it as it exists today. We must also be prepared to correct ourselves when necessary. Hopefully this can be done through education, concilation and cooperation of all segments of our population. When this fails, there must be a mechanism with legal authority, constituted by the state, with the power to eliminate the evils of prejudice and discrimination.

Sincerely,

Gary D. Meyers

ATTACHMENT 4

Mr. Chairman, Senators.

My name is Gerry Fenn. I've been a professional youth worker for over 40 years and am presently serving Montana as a Community Planning Coordinator for Children and Youth programs.

I am speaking in behalf of Senate Bill No. 697, especially in the area of age discrimination. One can probably find age discrimination all the way from the very young to the elderly. However, I wish to speak in behalf of those who are discriminated against because they are young.

When many of you grew up and when I grew up, a child's help and a youth's contribution to the work of the home, farm or business was important and these persons felt needed. When my grandfather was killed, my father at the age of 13 years took on many responsibilities in behalf of his mother and three sisters.

In recent years, technology has shut many children and youth out of meaningful work experiences and adults have closed the doors to them in many of the arenas where important decisions are made which affect their lives.

Prior to this session of the Legislature, I sent each of you a copy of this publication, "Legislative Handbook for Montanans" which has received high praise from many sources as being a very helpful tool for many Montanans. The principal writing was done by Opal Winebrenner of Cut Bank who is 21 years old. This is an example of the splendid things many young people can do if they are not ruled out.

Last September a young woman, now serving as a very capable secretary for one of our Senators, went to register at a Montana hotel

(over)

and was told they did not rent rooms to teenagers. Although she was 22 years old with a husband and two children, it was presumed that she was a teenager because she is short in stature. And it was presumed that if she was a teenager, she wouldn't be a suitable renter.

Also, last week I talked to a member of a small engineering firm in Montana which employs about 50 persons. They would like to employ some high school students, especially in the summer, but cannot do so because of our present child labor laws.

Agitation for child labor laws came in the early 1900's when children were being severely exploited. Now some of these laws prevent our young people from employment which would give them a sense of importance and some money in the pocket and help prevent the meaninglessness which results in rebellion and delinquent acts.

Because of the examples given, I urge you to act positively on SB-697 so that our young people will be more able to make important contributions to society, to be judged on their merit rather than presumed to be undesirable, and to have more opportunities to work.

Gerry Fenn

February 1, 1974

I AM TONY SOFTICH, ADMINISTRATOR OF THE LABOR STANDARDS DIVISION AND AM APPEARING IN SUPPORT OF S.B. 697.

I SHALL CONFINE MY REMARKS TO ONLY CERTAIN ASPECTS OF THIS LEGISLATION, AS THERE ARE OTHERS PRESENT TO TESTIFY ON OTHER PORTIONS OF THE BILL, HOWEVER I WILL RESPOND TO ANY QUESTIONS.

THE U. S. CIVIL RIGHTS ACT OF 1964 HAD BEEN AMENDED IN 1972 EXTENDING THE COVERAGE TO ALL SUB-DIVISIONS OF GOVERNMENT AND EMPLOYERS OF FIFTEEN (15) OR MORE EMPLOYEES.

OUR STATE STATUTES ON DISCRIMINATION DO NOT MEET THE REQUIREMENTS OF THE CIVIL RIGHTS ACT, AS THEY ARE PRINCIPALLY AIMED AT ACCOMODATION AND ONLY VAGUELY ON EMPLOYMENT.

OUR STATUTE ON "EQUAL PAY FOR EQUAL WORK" ONLY PERTAINS TO WOMEN AND NO PROTECTION FOR MEN.

THESE STATUTES ONLY PROVIDE A PENALTY OF MISDEMEANOR, AND THERE IS NOTHING ON AGE DISCRMINATION.

CONTRARY TO POPULAR BELIEF, DISCRIMINATION STILL EXISTS AS PERTAINS TO NATIONALITIES AND RELIGION.

PASSAGE OF THIS LEGISLATION WOULD ALLOW THE STATE TO ENFORCE THE CIVIL RIGHTS ACT BEFORE FEDERAL INTERVENTION.

ALLOW ME TO QUOTE A PARAGRAPH TAKEN FOR A SPEECH BY WILLIAM H. BROWN III

CHAIRMAN OF THE EQUAL OPPORTUNITY COMMISSION IN 1970 BEFORE A GROUP OF STATE AGENCIES FROM A MAJORITY OF THE VARIOUS STATES TITLED, "THE CRIME OF DISCRIMINATION: THE ROLE OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES, UNDER TITLE VII".

"THE CIVIL RIGHTS ACT MIGHT NEVER HAVE BEEN ENACTED IF YOUR AGENCIES HAD SUCCEEDED IN ELIMINATING EMPLOYMENT DISCRIMINATION. THE FACT OF ITS ENACTMENT IN 1964 WAS IN PART A MEASURE OF YOUR FAILURE. AT THE SAME TIME, THE CONGRESS PROVIDED THAT WHERE STATE AND LOCAL AGENCIES WILL DO A JOB AND NOT SHIRK THEIR RESPONSIBILITY, WE IN THE FEDERAL GOVERNMENT SHOULD LET THEM. CONGRESS ALSO MADE IT CLEAR, HOWEVER, THAT FEDERAL ENFORCEMENT SHOULD BE SWIFT AND FIRM WHERE STATE AGENCIES SHIRKED THEIR DUTY."

I STRONGLY RECOMMEND APPROVAL OF S.B. 697.

Tonly's.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

OFFICE OF
THE CHAIRMAN

DEC 22 1972

Honorable Forrest H. Anderson
Governor of Montana
Helena, Montana

Dear Governor:

As you know, the Equal Employment Opportunity Act of 1972 contains numerous provisions applicable to State and Local Government officials. Specifically, Congress amended this law so that its provisions prohibiting discrimination in employment because of race, religion, sex, or national origin now apply to all agencies of state and local governments including educational institutions. In addition, it clarifies the relationship between this agency and state administrative agencies enforcing state legislation prohibiting discrimination in employment. The purpose of this letter is to summarize some of the provisions of that law and of our rules implementing it which may be of particular interest to state government agencies.

I am enclosing for your information a copy of the statute as amended, the rules we issued pursuant to it, and a form which an appropriate agency of your state government might use to request that we defer appropriate cases to it. The specific aspects of these materials that might be of interest to you include the following:

1. Voluntary compliance with the law:

We will be developing programs to assist state and local government agencies to bring their practices in compliance with the law voluntarily. Many governors have already developed similar programs. I would appreciate it if you would forward to me copies of any plans you have implemented along these lines.

2. Deferral of cases to state FEPC agencies:

Title VII requires that the Equal Employment Opportunity Commission give the states the first opportunity to identify and eliminate employment discrimination in the public and private sectors. Specifically, if there is a state anti-discrimination agency administering appropriate enforceable legislation we may not commence an investigation of a charge filed with us until 60 days after we have deferred the charge to the state agency.

Numerous amendments to the Federal Statute and many recent court decisions required a clarification of our procedures for identifying the agencies to which this deferral is required. I am enclosing a copy of our new rules spelling out these procedures. Specifically, they require that an agency desiring designation as a deferral or "706 Agency" (to use the term in the rules) must conduct a self-audit and then apply for such designation. The application must certify that the practices prohibited and remedies required by state law, both as written and as administered, are comparable in scope to the practices prohibited and the remedies required under Title VII of the Civil Rights Act of 1964, as amended.

This review of existing state legislation should not be limited to the basic fair employment practices statute prohibiting discrimination in employment. It should also include an examination of other statutes, such as the so-called protective legislation providing "special" working conditions for women, which legislation may contain real or apparent exemptions from the coverage of the state fair employment practices legislation which makes it, in fact, less comprehensive than it appears to be on its face. These state protective laws, if they are in conflict with Title VII have been held by a number of federal court decisions to be of no effect.

No agency in your state is presently administering legislation sufficient in our judgement, to be designated as a formal deferral "706 Agency". However, we have designated the Department of Labor and Industry as a "provisional notice" agency in order to receive information copies of charges and to allow that agency time to conduct a self-audit necessary and to apply for formal designation as a deferral "706 Agency". This designation as a "provisional notice" agency will continue until July 1. 1973. This date was selected because records available to us indicate that your legislation will have held one full legislative session by that date which would allow time for this agency to recommend and for you to seek and obtain any amendments to state law that might be necessary to justify full designation as a "706 Agency". If you have any questions concerning the nature of the appropriate amendments, please do not hesitate to get in touch with me. However, the enclosed copy of a recent communication to the head of that agency summarizes some of the matters.

Sincerely,

William H. Brown, III
Chairman

Enclosures: (2)
1 copy form
1 copy rules

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

RECEIVED
DEC -7 1972
DEPT. OF LABOR & INDUSTRY

DEC 5 1972

Mr. Sidney Smith
Commissioner of Labor
Dept. of Labor & Industry
Labor Standards Div.
1331 Helena Avenue
Helena, Montana 59601

Dear Mr. Smith:

This agency administers Title VII of the Civil Rights Act of 1964 which prohibits discrimination in employment. Under this statute we are given responsibility for receiving and investigating and conciliating charges of discrimination in employment.

This statute also requires that our agency give appropriate agencies of state government a first opportunity to eliminate discrimination in both the public and private sectors. Specifically, we may not commence an investigation of a charge filed with us if there is a state anti-discrimination agency administering appropriate enforceable legislation until 60 days after we have deferred the charge to that state agency. Numerous amendments to the federal statute and many recent federal court decisions have required a clarification of our procedures for identifying the agencies as to which this deferral is required.

I am enclosing a copy of our new rules spelling out the procedures. Specifically, they require that an agency desiring designation as a deferral agency or "706 agency" (to use the term which appears in the rules) must conduct a self-audit and apply for such designation. The application must certify that the practices prohibited and remedies required by the state law, both as written, and administered, are comparable in scope to the practices prohibited and the remedies required under Title VII.

This is a slight change in the procedures we had followed previously. Specifically, in the past, we had attempted to obtain and examine all state statutes and city ordinances which might establish an appropriate agency to which such charges should be deferred. However, the extensive proliferation of such laws and ordinances made it impossible for

us to be sure that our research was complete. The rules, as indicated, now require any agency desiring designation to apply for same. During an interim period when agencies are becoming aware of these new rules and conducting these self-audits, we have established several "provisional" lists of agencies.

One such list is a list of provisional "706 agencies" which are, basically, the agencies to which we have previously deferred. A reading of the statutes which they administer indicates a possibility that they might be successful candidates for permanent designation as "706 agencies" should they apply for such designation. However, there is a second group of "provisional" agencies as to which a fairly detailed examination of the statute has indicated that they probably would NOT be eligible for such designation without amendment of the statute. As shown in the chart headed Provisional Notice Agencies on the last page of the enclosed excerpt from our Rules and Regulations, your office has been listed as an office administering a state law which falls into this category. Specifically, it is our belief that the law which you administer for one or more reasons is not comparable in scope to Title VII and would therefore, result in a decision that your agency is not appropriate for designation as a "706 agency".

To avoid any inadvertent loss of Federal Rights to charging parties, during a transition period while you are conducting the self-audit anticipated by our rules, we have designated your agency as a "provisional notice" agency until July 1, 1973. Although, during that time period, you will not actually receive a formal "deferral" of cases, you will receive an information copy of such charges. The July 1, 1973 date was selected because records available to us indicate that the legislature in your state will have held one full legislative session by that date. This would allow time for you to seek and obtain any appropriate amendments to your statute that might be necessary to justify full designation as a "706 agency" in order to justify deferring federal cases in the future. In conducting the examination of your state law and considering the appropriateness of requesting amendments it might be useful for you to know that our analysis indicates that your law was deficient because your law lacks an enforcement mechanism to provide a remedy for the violation and its victim. A law which only contains criminal penalties for the respondent guilty of violating it is not sufficient for deferral under Title VII's requirements that the deferral agent be able to obtain "relief."

If you have any questions on this matter, please do not hestitate to contact us.

Sincerely,

Peter C. Robertson
Director
State & Community Affairs

Enclosures

Mr. Chairman and Members of the Committee,

My name is Mary Kendall, and I am a lobbyist for Just-Us, a coalition of state-wide low-income and minority groups.

When I first came to the Capitol to lobby for Just-Us, I found that there were 10 or 12 women lobbying for equal rights for women. During this time the concern for women's rights was so overwhelming that equal rights for all people - human rights - was completely forgotten. Now that ERA had passed, it seems that human rights are still in the background.

Just yesterday a committee room was filled with low-income people showing their support for URLTA, a bill designed to equalize the bargaining powers between landlords and tenants. As the people were filing into the room, I overheard a [redacted] Official making a sarcastic remark about the large number of "poverts" in the Capitol

As long as statements such as this continue to be made, there is an obvious need for a Human Rights Commission. I sincerely urge that your committee give this bill a do-pass.

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE SENATE

February 14, 1974

The meeting was called to order by Senator McKeon, chairman, at 11:00 a.m. in Room 442 of the Capitol Building.

The committee went into executive discussion on the following bills:

SB 564	SB 659
SB 578	SB 697
SB 630	HB 528
SB 638	

SB 564--Senator Turnage said this bill would effect local government, and should confer with people in this area. He felt this bill had a good start but still needs additional revision.

SENATOR BOYLAN RECOMMENDED THE BILL DO NOT PASS, SECONDED BY SENATOR DRAKE. MOTION CARRIED.

SB 578--Senator Turnage said that a similar bill was introduced in the House prohibiting the use of lie detectors as a requirement for employment. He said this bill would conflict with it.

SENATOR TURNAGE MOVED THE BILL DO NOT PASS, SECONDED BY SENATOR BOYLAN. MOTION CARRIED.

SB 630--Senator Drake said that this bill would be encouraging persons to obtain their degrees in law from correspondence and extension schools.

Senator Turnage felt this should be limited to include only those persons who were effected by the law last year, but had filed to take the test.

SENATOR TURNAGE MOVED THAT THIS BILL BE AMENDED IN SECTION 1, PAGE 2, LINE 8, AFTER THE WORD "EXAMINATIONS" BY INSERTING "DURING THE YEARS 1974 AND 1975"; SECONDED BY SENATOR DRAKE. MOTION CARRIED.

SENATOR DRAKE MOVED THE BILL DO PASS AS AMENDED, SECONDED BY SENATOR MOORE. MOTION CARRIED.

SB 638--SENATOR TURNAGE RECOMMENDED THIS BILL DO NOT PASS, SECONDED BY SENATOR BOYLAN. MOTION CARRIED, wiTH SENATOR HARRISON OPPOSING.

SB 659--Senator Turnage said this bill would repeal emergency commitment, restoration capacity, and would move the patient directly to the mental institution for evaluation.. He suggested that a joint resolution be drafted by the legislative council over the interim, and to combine studies of previous research on mentally ill commitment into the new bill. The committee agreed.

SENATOR TURNAGE MOVED THAT THIS BILL DO NOT PASS; SECONDED BY SENATOR BOYLAN. MOTION CARRIED.

SB 697--SENATOR TURNAGE RECOMMENDED THIS BILL BE RE-REFERRED TO FINANCE AND CLAIMS; SECONDED BY SENATOR MOORE. MOTION CARRIED UNANIMOUSLY.

HB 528--SENATOR TURNAGE RECOMMENDED THIS BILL BE NOT CONCURRED IN; SECONDED BY SENATOR BOYLAN.

Senator Turnage withdrew his motion under the recommendation of Senator Gilfeather to hold it in committee pending the outcome of the joint resolution to be drafted over the interim.

There being no further business, the meeting was adjourned to reconvene Friday, February 15, on adjournment in Room 442.

LUKE MCKEON, Chairman

ROLL CALL

SENATE JUDICIARY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Dat 2/14/74

NAME	PRESENT	ABSENT	EXCUSED
Luke McKeon	✓		
Pat Gilfeather	✓		
Paul Boyland	✓		
Mrs. Boots Hall	✓		
Miles Romney			✓
Glenn Drake	✓		
Tom Harrison	✓		
Jim Moore	✓		
Jean Turnage	✓		

Each day attach to minutes

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE SENATE
February 15, 1974

The meeting was called to order by Senator McKeon, chairman, at 4:00 p.m. in Room 442 of the Capitol Building.

The committee went into executive discussion on the following bills:

SB 514
SB 643
SB 697

SB 514--The committee felt this bill was already covered in other legislation on the same subject.

SENATUR TURNAGE RECOMMENDED THIS BILL DO NOT PASS; SECONDED BY SENATOR BOYLAN. MOTION CARRIED.

SB 643--Senator Turnage felt this bill was inadequate for Montana problems and that it was designed "for a 40-story condominuim in New York".

Senator Gilfeather supported the bill realizing the many problems that landloards have. He felt this bill would help them considerably.

SENATOR TURNAGE MOVED THIS BILL DO NOT PASS, SECONDED BY SENATOR BOYLAN. MOTION CARRIED. A Minority Report was requested.

SB 697--Mike Howard, a legislative intern in the House, who worked on the amendments explained to the Committee the reasons for the proposed amendments: 1) Age cannot be the sole basis of refusal of employment; 2) Insert the words "an unlawful" whenever referring to discrimination to clear language; 3) insert discrimination based on political beliefs suggested by Senator Drake; and 4) strike phrases based on "sex and religion". Senator Hall questioned why the fiscal note included a field office in Billings.

SENATOR GILFEATHER MOVED THE AMENDMENTS DO PASS; SECONDED BY SENATOR MOORE. MOTION CARRIED.

SENATOR GILFEATHER MOVED THE BILL DO PASS AS AMENDED, SECONDE BY SENATOR HALL. MOTION CARRIED.

No further business, the meeting was adjourned at noon to reconvene Monday, February 18 on adjournment.

LUKE MCKEON, Chairman

ROLL CALL

SENATE JUDICIARY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 2-15

NAME	PRESENT	ABSENT	EXCUSED
Luke McKeon	✓		
Pat Gilfeather	✓		
Paul Boyland	✓		
Mrs. Boots Hall	✓		
Miles Romney	✓		
Glenn Drake	✓		
Tom Harrison	✓		
Jim Moore	✓		
Jean Turnage	✓		

Each day attach to minutes

42nd Legislative Assembly

2nd Session, 1974

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
SB 598	Declaring the right to refuse to participate in medical procedures resulting in sterilization, etc.	2/21/74	2/21/74		3/6/74	Be Held In Committee	
SB 655	Amending Section 82-4323 to provide that a governmental entity employer must be joined as party defendent, etc.	2/21/74	2/27/74		3/5/74	Be Concurred In As Amended	
SB 630	Amending 93-2002, permitting applicants approved prior to 1/1/70 to be admitted to the bar by examination	2/22/74	2/27/74		3/7/74	BE CONCURRED IN	
SB 715	An Act regulating abortions; providing for keeping of records of abortions, declaring the right to refuse, etc.	2/22/74	Partial hearing 2/21/74 Rest of hearing 2/26/74		3/6/74	Be Concurred In As amended	
SB 697	To prevent discrimination in employment, public accommodations, education, & real property transactions, etc.	2/22/74	2/27/74		3/5/74	Be Concurred In As amended	
SB 471	Amending Section 4-404 to increase the liquor license fee for cities with a population of 10,000 or more, etc.	2/25/74	3/1/74		3/6/74	Be Concurred In	

JUDICIARY COMMITTEE

February 27, 1974

The thirty eighth meeting of the House Judiciary Committee was called to order in Room 436 of the Capitol Building at Helena, Montana on Wednesday, February 27, 1974 at 9:20 AM. Representative Dan Yardley, Vice-Chairman, presided. Representative Larry Fasbender was present as a voting member in order to make a quorum. Representatives Hall, Lucas, Marbut, Roberts and Warfield were absent, excused. Several committee members were unable to be present for beginning of hearing but arrived later.

Bills scheduled for hearing this date were Senate Bills 655, 697 and 630 heard in this order.

SENATE BILL 655 Senator Jean A. Turnage, District 17, is chief sponsor of this bill to provide that a government entity employer must be joined as a party defendant in certain actions; providing immunity from personal liability or from suit for governmental entity employees in certain cases; providing for indemnity in certain cases; and providing an effective date. Senator Turnage stated this bill is an amendment to 82-4323 enacted last session. The intent is to eliminate unnecessary inclusion as party defendants the employees of government entities. Is an effort to make certain the proper party is named defendant. Concern for bill comes basically from the Department of Insurance which is concerned about unnecessary liability insurance. An employee can be a defendant if his conduct is a matter of intentional tort. Last session's act provided a concept that does not change. There have been suits filed in district court naming a multitude of defendants. Idea is to narrow suit to the proper party. Also to make government management less expensive.

Proponent Jack C. Crosser representing Department of Administration stated he supports this bill introduced after consultation with a number of state agencies that were interested. Article II, Section 19 of the constitution is implemented by this bill. He was advised of an instance in Wisconsin whereby the University of Wisconsin is a subject in fifty cases. Provided a copy of summons. (see exhibit)

Proponent Barry L. Hjort representing the Commissioner of Higher Education stated he highly endorsed this bill. Stated in development of this bill there was some input from the University of Montana and Milton Datsopoulos, an attorney in Missoula. Stated there was a lawsuit in Billings with five and a half million dollars of contingent liability and a couple members of board of regents because of contingent liability unable to get loans. No other proponents. No opponents.

Representative McKittrick stated that as he understands this the individual who might have been negligent could still be included

in action. Representative Greely questioned how this bill by making no recovery against the individual affects rates to which he was advised by Mr. Crosser that the reason was no coverage for the individual, just the government entity makes it cheaper. Hearing was then closed.

SENATE BILL 697 Senator P. J. Gilfeather, District 13 is chief sponsor of this bill but Representative Polly Holmes present to sponsor bill in the House. Representative Holmes stated this is a simplified and revised version of House Bill 542. This bill is to establish a commission on human rights, hearings were held for four years across the state, did much work on discrimination problems before drawing up bill last year. The bill defines, prohibits and provides a hearing procedure for civil rights act. Sets a process for handling discrimination. It will relieve the courts of hundreds of court cases. Under this bill if it is enacted the first years work will be of an educational and compliance nature. Employers are anxious to get this rule on the books. Will get seventy five percent funding for the commission. The congress provided that where state and local agencies will do this job they would let them. Federal enforcement should be sufficient and strong for those who don't comply.

Proponent Bill Romaine, representing Montana Mining Association stated he felt an amendment should be made to this bill pertaining to apprenticeships (see prepared statement). Feels bill as a whole has some problems but feels committee can handle them.

Proponent Bill Kirkpatrick representing Montana Wood Products Association, stated he supported amendment proposed by Bill Romaine. Proponent Sid J. Smith, representing the Department of Labor and Industry, stated he supports bill, feels its passage is important and thinks part on apprenticeship program should be put in bill.

Proponent Tony Softich confined his remarks to the employment aspects of this piece of legislation and read a comment by Governor Thomas L. Judge (see prepared statement).

Proponent Dorothy Eck, the local, state and federal co-ordinator, stated there has been a good deal of concern in developing a good policy preventing discrimination. From the federal point of view these laws will be enforced, federal government is becoming quite a bit more strict in the enforcement of equal opportunity provisions.

Proponent Henry Sideris, Kalispell, a retired farmer, feels this bill would eliminate much discrimination and urges support and passage. Proponent Frank R. Sennett representing the Montana Association for Social Concerns and the Department of Social and Rehabilitation Services, stated he appears in support of this bill. He testified that while working for former Governor Anderson he had complaints channeled across his desk for discrimination problems. Couldn't do much about them due to the lack of laws. We do have racial discrim-

ination against sex, most of these cases are never handled properly. Doesn't see how the portion of bill pertaining to political beliefs could be enforced.

Proponent Pat Melby from Department of Business Regulation, stated he was concerned about amendment concerning apprenticeship, a man forty years old needs training and should be included in apprenticeship program. No opponents.

Representative Polly Holmes, in closing, stated she was in agreement with suggested amendments and wanted to offer one regarding politics and government like people who on basis of ability rather than politics are hired. (see attached exhibit).

Representative Lucas inquired of Mr. Sennett were the files are now of cases claiming discrimination while he was an administrative assistant and learned they were stored either in basement of capitol building or the Historical Society, found no cases went into federal court under Governor Anderson. Representative McKittrick pointed out that as he reads the bill there is no provision for an individual who is grieved to file an action in court to protect himself and questioned whether an amendment could be made to protect an individual. Representative Greely pointed out that on page 5 the senate had deleted the provision for male and female salary. Representative Holmes replied that this was already covered on page 4, section 2, subsection (a). Representative Yardley questioned if the commission had a length of office and method of appointment which resulted in discussion of this.

SENATE BILL 630 Representative Yardley stated that Senator Neil J. Lynch, chief sponsor, District 20, had been here but was unable to stay. This bill is to allow applicants approved prior to January 1, 1970 to be admitted to the bar by examination. Judge James Freeborn, District Judge in Butte, appeared in support of this bill and requested legislators to correct this situation and let the approximately thirty people involved take the bar exam. Stated that now the Supreme Court had legislated to not let them take the exam. Proponent James T. Muler, representing the Montana Bar Examinees, urged support of the bill. Proponent Ida Dixon, Anaconda, on behalf of her husband who had taken the bar exam a number of times, urged a Do Pass recommendation. Another proponent urging passage was Wes Banta of Helena. No other proponents. No opponents.

Representative Greely questioned whether with the bill committee wouldn't be passing special legislation for a special group and if this might not be unconstitutional. He also questioned proponents as to whether they had appealed to the supreme court to which he was advised they had but without success. History behind this

I AM TONY SOFTICH, ADMINISTRATOR OF THE LABOR STANDARDS DIVISION, AND I AM APPEARING IN SUPPORT OF S. B. 697.

I SHALL CONFINE MY REMARKS TO THE EMPLOYMENT ASPECTS OF THIS LEGISLATION.

I WOULD LIKE TO QUOTE FROM A MEMORANDUM FORMER GOVERNOR FORREST H. ANDERSON SENT TO ALL STATE AGENCIES ON SEPTEMBER 29, 1972.

"IT HAS LONG BEEN A POLICY OF THE STATE OF MONTANA TO EMPLOY ITS WORKERS WITHOUT DISCRIMINATION BECAUSE OF RACE COLOR, RELIGION, SEX, OR NATIONAL ORIGIN. HOWEVER, RECENT EVENTS INDICATE THAT POSITIVE ACTION NEEDS TO BE TAKEN TO ENSURE THAT DISCRIMINATION IS NOT INADVERTENTLY OCCURRING IN STATE EMPLOYMENT PRACTICES.

THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972 EXTENDED THE COVERAGE OF THE CIVIL RIGHTS ACT OF 1964 TO INCLUDE STATE AND LOCAL GOVERNMENTS. THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION HAS AUTHORITY TO INITIATE SUIT THROUGH THE U. S. ATTORNEY GENERAL FOR VIOLATIONS OF THE ACT. THE COMPREHENSIVE NATURE OF THE LAW MAKES IT NECESSARY THAT AGENCIES OF STATE GOVERNMENT EVALUATE THEIR EMPLOYMENT PRACTICES TO BE CERTAIN THAT THEY ARE IN COMPLIANCE WITH THE LAW."

ON NOVEMBER 16, 1972 AT AN INTERSTATE SYMPOSIUM, THEN GOVERNOR ELECT THOMAS L. JUDGE, STATED AND I QUOTE:

"I HAVE LONG BEEN A SUPPORTER OF EQUAL EMPLOYMENT OPPORTUNITY FOR WOMEN AND MINORITIES. AS FAR BACK AS FEBRUARY OF 1970, THE PRESENT ADMINISTRATION CIRCULATED A MEMORANDUM DIRECTING ALL STATE AGENCIES

"TO DESIGN AND IMPLEMENT A POSITIVE PROGRAM FOR ACTIVE RECRUITMENT OF QUALIFIED MEMBERS OF MINORITY GROUPS, PARTICULARLY INDIANS TO FILL VACANCIES AS THEY MAY OCCUR.

MY ADMINISTRATION DOES NOT INTEND TO LET THIS ENTHUSIASM WANE, BUT RATHER LOOKS FORWARD TO CAPTURING THE ENTHUSIASM EVIDENT IN THIS SYMPOSIUM TOWARD THE GOAL OF POSITIVE ACTION. THE PROCESS OF ASSURING EQUAL EMPLOYMENT OPPORTUNITY TO ALL DOES NOT TERMINATE IN A POLICY ANNOUNCEMENT; IT IS NOT A PASSIVE PROCESS; THE GOAL CANNOT BE ACHIEVED THROUGH RHETORIC ALONE. THE PROCESS MUST BE AN ONGOING, CONSCIOUS, AND PRAGMATIC EFFORT IN THE DAY TO DAY OPERATIONS OF STATE GOVERNMENT. MY ADMINISTRATION WILL PLEDGE ITSELF TO EQUAL EMPLOYMENT OPPORTUNITY."

I WOULD FURTHER QUOTE FROM A PARAGRAPH TAKEN FROM AN ADDRESS BY WILLIAM H. BROWN III, CHAIRMAN OF THE EQUAL OPPORTUNITY COMMISSION IN 1970 BEFORE A GROUP OF STATE AGENCIES FROM A MAJORITY OF THE VARIOUS STATES, TITLE, "THE CRIME OF DISCRIMINATION: THE ROLE OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES, UNDER TITLE VII".

"THE CIVIL RIGHTS ACT MIGHT NEVER HAVE BEEN ENACTED IF YOUR AGENCIES HAD SUCCEEDED IN ELIMINATING EMPLOYMENT DISCRIMINATION. THE FACT OF ITS ENACTMENT IN 1964 WAS IN PART A MEASURE OF YOUR FAILURE. AT THE SAME TIME, THE CONGRESS PROVIDED THAT WHERE STATE AND LOCAL AGENCIES WILL DO A JOB AND NOT SHIRK THEIR RESPONSIBILITY, WE IN THE FEDERAL GOVERNMENT SHOULD LET THEM. CONGRESS ALSO MADE IT CLEAR, HOWEVER, THAT FEDERAL ENFORCEMENT SHOULD BE SWIFT AND FIRM WHERE STATE AGENCIES SHIRKED THEIR DUTY."

LET ME EMPHASIZE THAT IF WE IN MONTANA DO NOT FULFILL THE REQUIREMENTS OF THE CIVIL RIGHTS ACT THE FEDERAL GOVERNMENT IS BEING MORE AND MORE ADAMANT, AND IT SHALL BE TO THE DETRIMENT OF OUR EMPLOYERS.

S. B. 697 WILL GO A LONG WAY TOWARDS FULFILLMENT OF THE CIVIL RIGHTS ACT, AND I URGE YOUR APPROVAL OF THIS LEGISLATION.

WITNESS STATEMENT

Name William L. Romine Date 2-27-74

Address Helena Support ?

Representing Montana Mining Assoc Oppose ?

Which Bill ? S.B. 697 Amend ? X

Comments:

Senate Bill 697 should be amended to exclude compulsory retirement of an employee upon that employee reaching a certain age. The exclusion found in the Federal Law could be adopted. Title 29, section 626(f) USCS provides that it is not unlawful to observe the terms of a bona fide employee benefit plan such as a retirement, pension, or insurance plan which is not a subterfuge to evade the purposes of the Federal Law.

The bill should be amended in Section 2, sub-section E, page 5, line 9 by adding a new sub-section E to read as follows:

"(e) It shall not be unlawful for an employer, employment agency, or labor organization to observe the terms of a bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual."

Please leave prepared statement with the committee secretary.

IN THE DISTRICT COURT OF THE UNITED STATES

DISTRICT OF MONTANA - BILLINGS DIVISION

JAMES JAY LELAND,

Plaintiff,

-vs-

DR. STANLEY J. HEYWOOD, DR. HAROLD McCLEAVE, DR. ROBERT M. RODNEY, DR. EUGENE R. MOULTON, GOVERNOR THOMAS L. JUDGE, SUPERINTENDENT OF PUBLIC INSTRUCTION DOLORES COLBURG, ATTORNEY GENERAL ROBERT L. WOODAHL, BOYNTON G. PAIGE, JOHN D. FRENCH, FRED H. MIELKE, T. T. HEBERLY, HARRIET C. MELOY, RT. REV. MSGR. ANTHONY M. BROWN, MARJORIE W. KING, GARY J. GALLAGHER, WAYNE O'BRIEN, LEWY EVANS, JR., TED JAMES, MARY PACE, STATE BOARD OF EDUCATION and BOARD OF REGENTS OF HIGHER EDUCATION,

Defendants.

NO. 1214

SUMMONS

DIVISION OF ELEM. & SEC. EDUC.
OCT 1 1973
Helena, Montana

TO: THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon: ROBERT L. STEPHENS, JR., Plaintiff's attorney, whose address is: Suite 226, Hedden-Empire Building
206 North 29th Street
Billings, Montana 59101

an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JOHN J. PARKER
CLERK OF COURT
Ada R. Aleksich

COURT SEAL

complaint.

Section 7. Injunction to enforce commission order. The department may petition the district court in the county where the discriminatory practice occurred or in which the respondent resides or transacts business to enforce the commission's order by injunction.

Section 8. Department may employee attorney. (1) The department may employ an attorney as legal counsel. He shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party. The attorney general shall perform this function at the request of the commission.

Section 9. Unlawful to violate act -- penalty. (1) It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this act or to attempt to do so.

(2) No person or institution may discharge or discriminate against any participant or potential participant because he or she has made a complaint, assisted with an investigation or instituted proceedings.

(3) A person, employer, business, organization, corporation or agency, both public and private, who or which willfully engages in an unlawful discriminatory practice

Proposed by Holmes

prohibited by this act or willfully resists, prevents, impedes, or interferes with the commission, the department or any of its authorized representatives in the performance of duty under this act or who or which willfully violates an order of the commission or violates this act in any other manner, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than six (6) months or both.

-End-

Cont. officials who employ people on a policy-making level shall be allowed to consider political ideology in hiring.

SB 697

Holmes

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

OFFICE OF
THE CHAIRMAN

DEC 22 1972

Honorable Forrest H. Anderson
Governor of Montana
Helena, Montana

Dear Governor:

As you know, the Equal Employment Opportunity Act of 1972 contains numerous provisions applicable to State and Local Government officials. Specifically, Congress amended this law so that its provisions prohibiting discrimination in employment because of race, religion, sex, or national origin now apply to all agencies of state and local governments including educational institutions. In addition, it clarifies the relationship between this agency and state administrative agencies enforcing state legislation prohibiting discrimination in employment. The purpose of this letter is to summarize some of the provisions of that law and of our rules implementing it which may be of particular interest to state government agencies.

I am enclosing for your information a copy of the statute as amended, the rules we issued pursuant to it, and a form which an appropriate agency of your state government might use to request that we defer appropriate cases to it. The specific aspects of these materials that might be of interest to you include the following:

1. Voluntary compliance with the law:

We will be developing programs to assist state and local government agencies to bring their practices in compliance with the law voluntarily. Many governors have already developed similar programs. I would appreciate it if you would forward to me copies of any plans you have implemented along these lines.

2. Deferral of cases to state FEPC agencies:

Title VII requires that the Equal Employment Opportunity Commission give the states the first opportunity to identify and eliminate employment discrimination in the public and private sectors. Specifically, if there is a state anti-discrimination agency administering appropriate enforceable legislation we may not commence an investigation of a charge filed with us until 60 days after we have deferred the charge to the state agency.

Numerous amendments to the Federal Statute and many recent court decisions required a clarification of our procedures for identifying the agencies to which this deferral is required. I am enclosing a copy of our new rules spelling out these procedures. Specifically, they require that an agency desiring designation as a deferral or "706 Agency" (to use the term in the rules) must conduct a self-audit and then apply for such designation. The application must certify that the practices prohibited and remedies required by state law, both as written and as administered, are comparable in scope to the practices prohibited and the remedies required under Title VII of the Civil Rights Act of 1964, as amended.

This review of existing state legislation should not be limited to the basic fair employment practices statute prohibiting discrimininationin employment. It should also include an examination of other statutes, such as the so-called protective legislation providing "special" working conditions for women, which legislation may contain real or apparent exemptions from the coverage of the state fair employment practices legislation which makes it, in fact, less comprehensive than it appears to be on its face. These state protective laws, if they are in conflict with Title VII have been held by a number of federal court decisions to be of no effect.

No agency in your state is presently administering legislation sufficient in our judgement, to be designated as a formal deferral "706 Agency". However, we have designated the Department of Labor and Industry as a "provisional notice" agency in order to receive information copies of charges and to allow that agency time to conduct a self-audit necessary and to apply for formal designation as a deferral "706 Agency". This designation as a "provisional notice" agency will continue until July 1. 1973. This date was selected because records available to us indicate that your legislation will have held one full legislative session by that date which would allow time for this agency to recommend and for you to seek and obtain any amendments to state law that might be necessary to justify full designation as a "706 Agency". If you have any questions concerning the nature of the appropriate amendments, please do not hesitate to get in touch with me. However, the enclosed copy of a recent communication to the head of that agency summarizes some of the matters.

Sincerely,

William H. Brown, III
Chairman

Enclosures: (2)
1 copy form
1 copy rules

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

OFFICE OF
THE CHAIRMAN

DEC 22 1972

Honorable Forrest H. Anderson
Governor of Montana
Helena, Montana

Dear Governor:

As you know, the Equal Employment Opportunity Act of 1972 contains numerous provisions applicable to State and Local Government officials. Specifically, Congress amended this law so that its provisions prohibiting discrimination in employment because of race, religion, sex, or national origin now apply to all agencies of state and local governments including educational institutions. In addition, it clarifies the relationship between this agency and state administrative agencies enforcing state legislation prohibiting discrimination in employment. The purpose of this letter is to summarize some of the provisions of that law and of our rules implementing it which may be of particular interest to state government agencies.

I am enclosing for your information a copy of the statute as amended, the rules we issued pursuant to it, and a form which an appropriate agency of your state government might use to request that we defer appropriate cases to it. The specific aspects of these materials that might be of interest to you include the following:

1. Voluntary compliance with the law:

   We will be developing programs to assist state and local government agencies to bring their practices in compliance with the law voluntarily. Many governors have already developed similar programs. I would appreciate it if you would forward to me copies of any plans you have implemented along these lines.

2. Deferral of cases to state FEPC agencies:

   Title VII requires that the Equal Employment Opportunity Commission give the states the first opportunity to identify and eliminate employment discrimination in the public and private sectors. Specifically, if there is a state anti-discrimination agency administering appropriate enforceable legislation we may not commence an investigation of a charge filed with us until 60 days after we have deferred the charge to the state agency.

Numerous amendments to the Federal Statute and many recent court decisions required a clarification of our procedures for identifying the agencies to which this deferral is required. I am enclosing a copy of our new rules spelling out these procedures. Specifically, they require that an agency desiring designation as a deferral or "706 Agency" (to use the term in the rules) must conduct a self-audit and then apply for such designation. The application must certify that the practices prohibited and remedies required by state law, both as written and as administered, are comparable in scope to the practices prohibited and the remedies required under Title VII of the Civil Rights Act of 1964, as amended.

This review of existing state legislation should not be limited to the basic fair employment practices statute prohibiting discrimination in employment. It should also include an examination of other statutes, such as the so-called protective legislation providing "special" working conditions for women, which legislation may contain real or apparent exemptions from the coverage of the state fair employment practices legislation which makes it, in fact, less comprehensive than it appears to be on its face. These state protective laws, if they are in conflict with Title VII have been held by a number of federal court decisions to be of no effect.

No agency in your state is presently administering legislation sufficient in our judgement, to be designated as a formal deferral "706 Agency". However, we have designated the Department of Labor and Industry as a "provisional notice" agency in order to receive information copies of charges and to allow that agency time to conduct a self-audit necessary and to apply for formal designation as a deferral "706 Agency". This designation as a "provisional notice" agency will continue until July 1. 1973. This date was selected because records available to us indicate that your legislation will have held one full legislative session by that date which would allow time for this agency to recommend and for you to seek and obtain any amendments to state law that might be necessary to justify full designation as a "706 Agency". If you have any questions concerning the nature of the appropriate amendments, please do not hesitate to get in touch with me. However, the enclosed copy of a recent communication to the head of that agency summarizes some of the matters.

Sincerely,

William H. Brown, III
Chairman

Enclosures: (2)
1 copy form
1 copy rules

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

RECEIVED
DEC - 7 1972
DEPT. OF LABOR & INDUSTRY

DEC 5 1972

Mr. Sidney Smith
Commissioner of Labor
Dept. of Labor & Industry
Labor Standards Div.
1331 Helena Avenue
Helena, Montana 59601

Dear Mr. Smith:

This agency administers Title VII of the Civil Rights Act of 1964 which prohibits discrimination in employment. Under this statute we are given responsibility for receiving and investigating and conciliating charges of discrimination in employment.

This statute also requires that our agency give appropriate agencies of state government a first opportunity to eliminate discrimination in both the public and private sectors. Specifically, we may not commence an investigation of a charge filed with us if there is a state anti-discrimination agency administering appropriate enforceable legislation until 60 days after we have deferred the charge to that state agency. Numerous amendments to the federal statute and many recent federal court decisions have required a clarification of our procedures for identifying the agencies as to which this deferral is required.

I am enclosing a copy of our new rules spelling out the procedures. Specifically, they require that an agency desiring designation as a deferral agency or "706 agency" (to use the term which appears in the rules) must conduct a self-audit and apply for such designation. The application must certify that the practices prohibited and remedies required by the state law, both as written, and administered, are comparable in scope to the practices prohibited and the remedies required under Title VII.

This is a slight change in the procedures we had followed previously. Specifically, in the past, we had attempted to obtain and examine all state statutes and city ordinances which might establish an appropriate agency to which such charges should be deferred. However, the extensive proliferation of such laws and ordinances made it impossible for

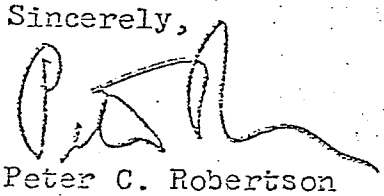
us to be sure that our research was complete. The rules, as indicated, now require any agency desiring designation to apply for same. During an interim period when agencies are becoming aware of these new rules and conducting these self-audits, we have established several "provisional" lists of agencies.

One such list is a list of provisional "706 agencies" which are, basically, the agencies to which we have previously deferred. A reading of the statutes which they administer indicates a possibility that they might be successful candidates for permanent designation as "706 agencies" should they apply for such designation. However, there is a second group of "provisional" agencies as to which a fairly detailed examination of the statute has indicated that they probably would NOT be eligible for such designation without amendment of the statute. As shown in the chart headed Provisional Notice Agencies on the last page of the enclosed excerpt from our Rules and Regulations, your office has been listed as an office administering a state law which falls into this category. Specifically, it is our belief that the law which you administer for one or more reasons is not comparable in scope to Title VII and would therefore, result in a decision that your agency is not appropriate for designation as a "706 agency".

To avoid any inadvertent loss of Federal Rights to charging parties, during a transition period while you are conducting the self-audit anticipated by our rules, we have designated your agency as a "provisional notice" agency until July 1, 1973. Although, during that time period, you will not actually receive a formal "deferral" of cases, you will receive an information copy of such charges. The July 1, 1973 date was selected because records available to us indicate that the legislature in your state will have held one full legislative session by that date. This would allow time for you to seek and obtain any appropriate amendments to your statute that might be necessary to justify full designation as a "706 agency" in order to justify deferring federal cases in the future. In conducting the examination of your state law and considering the appropriateness of requesting amendments it might be useful for you to know that our analysis indicates that your law was deficient because your law lacks an enforcement mechanism to provide a remedy for the violation and its victim. A law which only contains criminal penalties for the respondent guilty of violating it is not sufficient for deferral under Title VII's requirements that the deferral agent be able to obtain "relief."

If you have any questions on this matter, please do not hestitate to contact us.

Sincerely,



Peter C. Robertson
Director
State & Community Affairs

Enclosures

Senate Bill 697

Be amended on page 5, section 2, subsection (e), line 9 by adding a new subsection (e) to read as follows:

(e) It shall not be unlawful for an employer, employment agency, or labor organization to observe the terms of a bona fide employee benefit plan such as a retirement pension, or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual.

Proposed by Bill Romaine

Amendment proposed by Representative Polly Holmes:

Government officials who employ people on a policy making level shall be allowed to consider political ideology in hiring.

WITNESS STATEMENT

Name Jan Rogar Date 2/27/74

Address Box 1184 - Helena Support ? ✓

Representing Mont. Public Employees Assoc. Oppose ?

Which Bill ? 697 Amend ?

Comments:

In representing public employees, our association has often been presented with employee problems based on discrimination - particularly sex, race, and age. We feel the proposed Commission would offer an effective remedy for public employees and all Montanans facing any type of discriminatory practice.

Please leave prepared statement with the committee secretary.

Questions included whether there was an appropriation involved to which Senator Moore answered there was an appropriation bill in the Senate Finance and Claims Committee. Representative Lucas stated he had worked on this bill, felt legislative council had unique facilities which would be expensive to duplicate. Hearing was then closed.

EXECUTIVE SESSION

Acting Chairman Yardley stated that Representative Fasbender had some amendments to propose to SENATE BILL 556.

SENATE BILL 630 Acting Chairman Yardley advised committee that this bill which has been acted upon in meeting March 4, 1974 with a BE NOT CONCURRED IN, was held in committee as he wanted to explain to Dick Dzivi why committee killed the bill.

SENATE BILL 697 Representative Marbut, a member of the subcommittee along with Representatives Bell and Towe, explained the subcommittee met Saturday on this bill but Representative Towe tied up in another subcommittee and unable to work on it with them. Representative Marbut stated that human rights commissions are not new, thirty seven states now have them. The Department of Health, Education and Welfare has a strong program now for human rights commission. Stated he had discussed the bill with Beverly Rowan, an attorney from Florida on the human rights commission who suggested adding mentally and physically handicapped people. Has a draft of amendments to do this. Subcommittee also defined mentally and physically handicapped. Also covered political beliefs. Have limited political beliefs part to apply only to policy-making positions on the immediate staff of an elected officer of the executive branch as provided for in Article VI, Section 1, of the Montana Constitution.

Representative Bell stated he was not as enthusiastic about the bill as Representative Marbut but with the amendments could live with it. Has a hangup on the political belief portion at bottom of page 5 and top of page 6. A lot of justification for the bill is the federal government may fund 75% of it. Fiscal note calls for $98,000. Feels the bill is needed in light of activities of various social groups, as well as for discrimination of inadequate care of mentally handicapped people.

Representative Greely questioned whether apprenticeship for unions and retired people was covered to which Representative Bell replied that Bill Romaine had brought this problem up in testimony but Sid Smith had said he didn't think there would be any problem here.

Representative Towe stated his own reaction to age was that if discrimination were allowed it would be difficult for older people to get a job and the same applies to the apprenticeship program.

Representative Marbut moved the adoption of his amendments (see exhibit). These provide for deletion of political belief and also includes physically and mentally handicapped in basis of discrimination. In answer to question by Representative McKittrick, Representative Marbut replied that this bill conforms with a bill pertaining to 64-302 which was passed out of the house. Representative Greely stated the amendments speak for themselves, they are good. He seconded motion to adopt amendments. Representative Lucas stated that most of his experience with discrimination against the physically handicapped was with accomodations and some employment situations. Motion to adopt proposed amendments carried with Representative Bell and Lucas voting no.

Representative Lucas moved Senate Bill 697 be amended by striking page 1, lines 21, 22 and 23 with capitalized words which say you can discriminate because of age. Motion carried.

Representative McKittrick moved to amend by adding a new section 9 to read "Nothing in this act shall preclude a person from filing a petition in district court even though relief has not first been sought from the commission." Stated he didn't want to circumvent the human rights commission but wanted to give the petitioner a choice. Under the APA some hearings are being held without a reporter and no record is kept. Representative Greely objected to the amendment and stated this is why we are setting up the commission is to get it out of court but leave them the right to go into court later. Representative Bell stated that if the commission isn't funded the court isn't going to say "go to the commission". Following additional discussion the motion to amend failed on a tie vote with Representatives Towe, Lucas, Warfield, McKittrick and Baeth voting yes, Representatives Baucus and Brown absent.

Representative McKittrick stated the commission as the bill is written is composed of five members appointed by the governor. Under 82A-112 it is required at least one member be a lawyer. Questioned what about putting in minority groups.

Representative Greely moved Senate Bill 697 BE CONCURRED IN AS AMENDED. Motion carried with Representatives Bell and Lucas voting no, Representatives Baucus and Brown absent.

SENATE BILL 715 This bill was acted upon to BE CONCURRED IN AS AMENDED in previous meeting of Judiciary Committee but Representative Yardley upon agreement of the committee held bill in committee pending requested opinion by Attorney General

Proposed by Rep. Marbut

Proposed House Subcommittee
Amendments to S.B. 697

That Senate Bill No. 697 be amended on page 3, between lines 8 and 9, by inserting the following new material:

"(11) "Mental handicap" means Any mental disability resulting in subaverage intellectual functioning and impaired social competence.";

Further amend on page 3, line 9, by deleting "(11)" and inserting in lieu thereof "(12)";

Further amend on page 3, line 10, by deleting "(12)" and inserting in lieu thereof "(13)";

Further amend on page 3, between lines 14 and 15, by inserting the following new material:

"(14) "Physical handicap" means any physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness, including epilepsy, and shall include without limitation any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog for the blind, wheelchair, or other remedial appliance or device.";

Further amend on page 3, line 15, by deleting "(13)" and inserting in lieu thereof "(15)";

Further amend on page 3, line 24, after the word and punctuation "company," by inserting the word and punctuation "hospital,";

Further amend on page 4, lines 10 and 11, by deleting the words and punctuation "POLITICAL BELIEFS,";

Further amend on page 4, line 11, after the word "physical" by inserting the words "or mental";

Further amend on page 4, line 13, after the word "physical" by inserting the words "or mental";

Further amend on page 4, line 15, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 4, line 25, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 4, line 25, by deleting the words and punctuation "POLITICAL BELIEFS,";

Further amend on page 6, line 4, after the words and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 6, line 11, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 6, line 21, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 6, line 25, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 7, line 6, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 7, line 20, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 8, line 7, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 8, line 14, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

Further amend on page 8, line 17, after the word "origin" by inserting the words and punctuation ", or possessing a physical or mental handicap,";

Further amend on page 8, between lines 17 and 18, by inserting the following new material:

"(c) to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his political beliefs. However, this prohibition does not apply to policy-making positions on the immediate staff of an elected officer of the executive branch provided for in article VI, section 1, of the Montana constitution, nor to the appointment by the governor of a director of a principal department provided for in article VI, section 7, of the Montana constitution.";

Further amend on page 8, line 24, after the word and punctuation "age," by inserting the words and punctuation "physical handicap,";

Further amend on page 8, line 24, after the word "origin" by inserting the words and punctuation ", or because of mental handicap unless based on reasonable grounds under rules adopted by the commission" ;

Further amend on page 9, line 3, after the word "religion" by inserting the words and punctuation ", physical or mental handicap,";

Further amend on page 9, line 9, after the word and punctuation "age," by inserting the words and punctuation "physical and mental handicap,";

Further amend on page 9, line 14, after the word "religion" by inserting the words and punctuation ", physical or mental handicap,";

Further amend on page 9, line 16, after the word and punctuation "age," by inserting the words and punctuation "physical or mental handicap,";

(d) a statement containing further recommendations of the governor should he deem it necessary.

(5) Detailed recommendations for the state long-range building program. Each recommendation shall be presented by department, institution, agency or branch by funding source, with a description of each proposed project. An appropriation measure shall be presented by project, source of funding, and department, agency, institution or branch for which the project is primarily intended.

(6) Appropriation measures detailed by program, fund, and accounting entity, authorizing disbursements and related restrictions thereto by department, institution, or agency of the state."

Section 5. Section 79-1016, R.C.M. 1947, is amended to read as follows:

"79-1016. **Inquiries and investigations by budget director.** The *budget* director *or his designated representative* shall make such further inquiries and investigations as he shall deem necessary as to any item included in the report and estimates furnished by any department, agency or institution. In making such investigations, he shall be allowed his necessary expenses of travel and subsistence as provided by law in visiting any institution or department in the state. The *budget* director may appoint a chief assistant and may employ such other personnel as may be necessary to carry out the provisions of this chapter."

Section 6. Section 79-1017, R.C.M. 1947, is amended to read as follows:

"79-1017. **Other duties of director.** The *budget* director in addition to the duties hereinbefore set forth shall perform such other duties as the governor as chief budget officer of the state may direct. He shall, as often as requested by the governor, prepare and furnish reports to the governor concerning appropriations made by the legislative assembly, the receipts and *disbursements* made by any department, office or institution of the state. The *budget* director shall be available to all standing committees of the house of representatives and the senate concerned with appropriations, revenue, finance and claims and shall furnish to such committees any information required while said committees are considering the budget."

Section 7. Section 79-1018, R.C.M. 1947, is amended to read as follows:

"79-1018. **Power of director to demand and receive information from state departments, officers, etc.** The *budget* director shall have power to demand and receive from every department, officer, board, commission, or institution, at any time, any and all information requested."

Approved March 25, 1974

CHAPTER NO. 283

AN ACT TO PREVENT DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, EDUCATION, AND REAL PROPERTY TRANSACTIONS; TO ESTABLISH A COMMISSION ON HUMAN RIGHTS; TO AUTHORIZE THE CREATION OF LOCAL COMMISSIONS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO, AND FOR OTHER PURPOSES; AND REPEALING SECTIONS 64-302 AND 64-303, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 64-305, R.C.M. 1947, which reads as follows:

64-305. **Definitions.** As used in this act, unless the context requires otherwise:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Commission" means the commission for human rights provided for in section 82A-1015.

(3) "Department" means the department of labor and industry provided for in Title 82A, chapter 10.

(4) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, university, a business, nursing, professional, secretarial, technical or vocational school or an agent of an educational institution.

(5) "Employee" means any individual employed by an employer.

(6) "Employer" means an employer of one (1) or more persons but does not include a fraternal, charitable, or religious association or corporation, if the association or corporation is not organized for private profit; or to provide accommodation or services that are available on a nonmembership basis.

(7) "Employment agency" means a person undertaking to procure employees or opportunities to work.

(8) "Financial institution" means a commercial bank, trust company, mutual savings bank, cooperative bank, homestead association, finance company, mutual savings and loan association or an insurance company.

(9) "Housing accommodation" means a building or portion of a building, whether constructed or to be constructed, which is or will be used as the sleeping quarters of its occupants.

(10) "Labor organization" means an organization and an agent of the organization, organized for the purpose, in whole or in part, of collective bargaining, dealing with employers concerning grievances, terms of conditions of employment, or of other mutual aid protection of employees.

(11) "Mental handicap" means any mental disability resulting in subaverage intellectual functioning and impaired social competence.

(12) "National origin" means ancestry.

(13) "Person" means one (1) or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated employees, employers, employment agencies, or labor organizations.

(14) "Physical handicap" means any physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness, including epilepsy, and shall include without limitation any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog for the blind, wheelchair, or other remedial appliance or device.

(15) "Public accommodation" means a place which caters or offers its services, goods, or facilities to the general public including but not limited to a public inn, restaurant, eating house, hotel, roadhouse, place where food or spirituous or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, night club, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, hospital, and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons.

Section 2. There is a new section to be numbered 64-306, R.C.M. 1947, which reads as follows:

64-306. **Discriminatory practices described and prohibited.** (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, religion, color, or national origin or because of his age, physical or mental handicap or sex when the reasonable demands of the position do not require an age, physical or mental handicap or sex distinction;

(b) a labor organization, because of a person's sex, age, physical or mental handicap, race, religion, color, or national origin, to exclude or expel him from its membership, apprenticeship, or training program, or to discriminate in any way against a member of, or an applicant to the labor organization or an employer or an employee;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment, which expresses, directly or indirectly, a limitation, specification or discrimination as to sex, age, physical or mental handicap, race, creed, color, or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employer, labor organization or employment agency to discharge, expel, or otherwise discriminate against a person because he has opposed any practices forbidden under this act or because he has filed a complaint, testified, or assisted in a proceeding under this act.

The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights law and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public.

(2) It is an unlawful discriminatory practice for the owner, lessee, manager, agent, or employee of a public accommodation:

(a) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or privileges because of sex, race, age, physical or mental handicap, religion, color, or national origin;

(b) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any of the services, goods, facilities, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, religion, sex, age, physical or mental handicap, color or national origin except when the distinction is based on reasonable grounds under rules adopted by the commission.

(3) It is an unlawful discriminatory practice for the owner, lessee, manager or other person having the right to sell, lease, or rent a housing accommodation or improved or unimproved property:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, race, religion, color, age, physical or mental handicap, or national origin, except when the distinction is based on reasonable grounds under rules adopted by the commission;

(b) to discriminate against a person because of sex, race, religion, age, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of a housing accommodation or improved or unimproved property, except when the distinction is based on reasonable grounds under rules adopted by the commission; or

(c) to make a written or oral inquiry or record of the sex, race, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent a housing accommodation or improved or unimproved property, except when the distinction is based on reasonable grounds under rules adopted by the commission;

(d) a private residence designed for single family occupancy, in which sleeping space is rented to guests in the family home in which the landlord also resides, may be excluded from the provisions of this act.

(4) It is an unlawful discriminatory practice for a financial institution, upon receiving an application for financial assistance to permit an official or employee during the execution of his duties:

(a) to discriminate against the applicant because of sex, race, religion, age, physical or mental handicap, color, or national origin in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance.

(5) It is an unlawful discriminatory practice for the state or any of its political subdivisions:

(a) to refuse, withhold from, or deny to a person any local, state, or federal funds, services, goods, facilities, advantages, or privileges because of race, religion, sex, color, age, physical or mental handicap, or national origin;

(b) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any local, state, or federal funds, services, goods, facilities, advantages, or privileges of the office or agency will be refused, withheld from, or denied to a person of a certain race, religion, sex, color, age, physical or mental handicap, or national origin or that the patronage of a person belonging to a particular race, creed, sex, color, or certain age or national origin or possessing a physical or mental handicap, is unwelcome, or not desired or solicited.

(c) to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his political beliefs. However, this prohibition does not apply to policy-making positions on the immediate staff of an elected officer of the executive branch provided for in article VI, section 1, of the Montana constitution, nor to the appointment by the governor of a director of a principal department provided for in article VI, section 7, of the Montana constitution.

(6) It is an unlawful discriminatory practice for an educational institution:

(a) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, condition, and privileges of the institution because of race, color, age, physical handicap, or national origin or because of mental handicap unless based on reasonable grounds under rules adopted by the commission;

(b) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, religion, physical or mental handicap, or national origin of an applicant for admission, except as permitted by regulations of the commission;

(c) to print, publish, or cause to be printed or published a catalog or other notice or advertisement indicating a limitation, specification, or discrimination based on the race, color, religion, age, physical or mental handicap, sex, or national origin of an applicant for admission; or

(d) to announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of race, color, religion, physical or mental handicap, or national origin.

Section 3. There is a new section to be numbered 64-307, R.C.M. 1947, which reads as follows:

64-307. **Sex, age, physical or mental handicap, race, religion, color, origin no justification for discrimination.** (1) Sex, age, physical or mental handicap, race, religion, color or national origin, either singly or in combination, may not comprise justification for discrimination in and of themselves unless the nature of the service requires the discrimination for the legally demonstrable purposes of correcting a previous discriminatory practice.

(2) Separate lavatory, bathing or dressing facilities based on the distinction of sex may be maintained for the purpose of modesty or privacy.

Section 4. There is a new section to be numbered 82A-1015, R.C.M. 1947, which reads as follows:

82A-1015. **Commission for human rights.** (1) There is a commission for human rights.

(2) The commission consists of five (5) members appointed by the governor.

(3) The commission is designated as a quasi-judicial board for the purposes of section 82A-112.

(4) The commission is allocated to the department of labor and industry for administrative purposes only as provided in section 82A-108.

Section 5. There is a new section to be numbered 64-308, R.C.M. 1947, which reads as follows:

64-308. **Complaint — how filed — by whom.** (1) A person who believes he is aggrieved by any discriminatory practice prohibited by this act may sign and file with the department a written, verified complaint stating the name and address of the person alleged to have engaged in discriminatory practice, and the particulars of the alleged discriminatory practice. The department may file a complaint in like manner when a discriminatory practice comes to its attention.

(2) The department shall notify the commission in writing of all complaints filed with the department. The commission shall meet a minimum of four (4) times a year to hear and act upon all complaints filed.

(3) At any time after a complaint is filed under this act, alleging an unlawful discriminatory practice, the commission may file a petition in the district court in the county in which the subject of the complaint occurs, or in the county in which a respondent resides or transacts business, seeking appropriate temporary relief against this practice, including an order restraining the respondent from interfering in any manner with an order the commission may enter with respect to the complaint. The court has the power to grant the temporary relief or restraining order it considers just and proper. However, no relief or order extending beyond fourteen (14) days may be granted except by consent of the respondent and upon a finding by the court that there is reasonable cause to believe that the respondent has engaged in discriminatory practices.

(4) The department shall informally investigate the matters set out in a filed complaint promptly and impartially. If the department determines that the allegations are supported by substantial evidence, it shall immediately try to eliminate the discriminatory practice by conference, conciliation, and persuasion.

(5) If the informal efforts to eliminate the alleged discrimination are unsuccessful, the department shall inform the commission of the failure and the commission shall cause written notice to be served together with a copy of the complaint, requiring the person, employer, business, corporation or agency charged in the complaint to answer the allegations of the complaint at a hearing before the commission. The hearing shall be held by the commission in the county where the unlawful conduct is alleged to have occurred unless the person, employer, business, corporation, organization, agency or the commission requests a change of venue for good cause shown. The case in support of the complaint may be presented before the commission by the department, the complainant or by an attorney representing the complainant. The hearing and any subsequent proceedings under the act except as permitted under section 7, shall be held in accordance with the Montana Administrative Procedure Act.

Section 6. There is a new section to be numbered 64-309, R.C.M. 1947, which reads as follows:

64-309. **Power of commission on finding of discrimination.** (1) If the commission finds that a person against whom a complaint was filed has engaged in the discriminatory practice alleged in the complaint, it shall order him to refrain from engaging in the discriminatory conduct. The order may prescribe conditions on the accused's future conduct relevant to the type of discriminatory practice found.

(a) The order may require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against.

(b) The order may require a report on the manner of compliance.

(c) The order may not require the payment of any punitive damages as defined by the Revised Codes of Montana.

(2) If the commission finds that a person against whom a complaint was filed has not engaged in the discriminatory practice alleged in the complaint, it shall issue and cause to be served on the complainant an order dismissing the complaint.

Section 7. There is a new section to be numbered 64-310, R.C.M. 1947, which reads as follows:

64-310. **Injunction to enforce commission order.** The department may petition the district court in the county where the discriminatory practice occurred or in which the respondent resides or transacts business to enforce the commission's order by injunction.

Section 8. There is a new section to be numbered 64-311, R.C.M. 1947, which reads as follows:

64-311. **Department may employ attorney.** (1) The department may employ an attorney as legal counsel. He shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party. The attorney general shall perform this function at the request of the commission.

Section 9. There is a new section to be numbered 64-312, R.C.M. 1947, which reads as follows:

64-312. **Unlawful to violate act — penalty.** (1) It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this act or to attempt to do so.

(2) No person or institution may discharge or discriminate against any participant or potential participant because he or she has made a complaint, assisted with an investigation or instituted proceedings.

(3) A person, employer, business, organization, corporation or agency, both public and private, who or which willfully engages in an unlawful discriminatory practice prohibited by this act or willfully resists, prevents, impedes, or interferes with the commission, the department or any of its authorized representatives in the performance of duty under this act or who or which willfully violates an order of the commission or violates this act in any other manner, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than six (6) months or both.

Section 10. Sections 64-302 and 64-303, R.C.M. 1947, are repealed.

Approved March 25, 1974

CHAPTER NO. 284

AN ACT REGULATING ABORTIONS; PROVIDING FOR KEEPING OF RECORDS OF ABORTIONS; DECLARING THE RIGHT TO REFUSE TO PARTICIPATE IN ABORTIONS; PROTECTING THE LIFE OF THE FETUS; PROVIDING PENALTIES AND AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 94-5-613, R.C.M. 1947, which reads as follows:

94-5-613. **Short title.** This act shall be known and may be cited as the "Montana Abortion Control Act."

Section 2. There is a new section to be numbered 94-5-614, R.C.M. 1947, which reads as follows:

94-5-614. **Statement of purpose.** The legislature reaffirms the tradition of the state of Montana to protect every human life, whether unborn